

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF MISSISSIPPI  
OXFORD DIVISION**

---

**BUFF CITY SOAP LLC and BUFF  
CITY SOAP HOLDINGS LLC**

**PLAINTIFFS**

v.

**CASE NO. 3:20cv55-NBB-RP**

**MAGEN BYNUM, BUFF CITY NEW  
ALBANY, LLC, MAGNOLIA SOAP  
& BATH CO. OF OXFORD, LLC,  
MAGNOLIA SOAP & BATH CO. OF  
NEW ALBANY, LLC, MAGNOLIA  
SOAP & BATH CO. OF TUPELO, LLC,  
and MAGNOLIA SOAP & BATH  
HOLDING CO., LLC,**

**DEFENDANTS**

---

**COMPLAINT**

---

Buff City Soap LLC and Buff City Soap Holdings LLC, by and through counsel, file this Complaint against Defendants Magen Bynum (“Bynum”), Buff City New Albany, LLC (“BCNA”), Magnolia Soap & Bath Co. of Oxford, LLC, and Magnolia Soap & Bath Co. of New Albany, LLC, Magnolia Soap & Bath Co. of Tupelo, LLC, and Magnolia Soap & Bath Holding Co., LLC (collectively, “Magnolia Soap Defendants” and together with Bynum and BCNA, “Defendants”) for, among other requests, monetary damages, injunctive relief, and enforcement of certain contractual provisions, and alleges as follows:

**I. THE PARTIES**

1. Buff City Soap LLC is a limited liability company organized and existing under the laws of the State of Tennessee with its principal places of business located in Bartlett, Tennessee and Dallas, Texas.

2. Buff City Soap Holdings LLC is a limited liability company organized and existing under the laws of the State of Delaware with its principal places of business located in Bartlett, Tennessee and Dallas, Texas. Buff City Soap Holdings LLC owns and licenses its trademarks and trade dress rights to Buff City Soap, LLC. Buff City Soap LLC and Buff City Soap Holdings LLC are hereinafter collectively referred to as “Buff City.”

3. Defendant Magen Bynum is an individual residing in and a citizen of Mississippi.

4. Defendant Buff City New Albany, LLC was a Mississippi limited liability company having a principal place of business in New Albany, Mississippi, that was administratively dissolved in December 2018.

5. Defendant Magnolia Soap & Bath Co. of Oxford, LLC is a Mississippi limited liability company with its principal place of business located at 119 West Bankhead Street, New Albany, MS 38652.

6. Defendant Magnolia Soap & Bath Co. of New Albany, LLC is a Mississippi limited liability company with its principal place of business located at 119 West Bankhead Street, New Albany, MS 38652.

7. Defendant Magnolia Soap & Bath Co. of Tupelo, LLC was a Mississippi limited liability company that was administratively dissolved in November 2019. The website for the Mississippi Secretary of State does not identify a principal place of business or the members of Magnolia Soap & Bath Co. of Tupelo, LLC.

8. Defendant Magnolia Soap & Bath Holding Co., LLC was a Mississippi limited liability company that was administratively dissolved in November 2019. The website for the Mississippi Secretary of State does not identify a principal place of business or the members of Magnolia Soap & Bath Holding Co., LLC.

## **II. JURISDICTION AND VENUE**

9. This Court has subject matter jurisdiction over this action under 15 U.S.C. § 1121, as it involves federal trademark law under the Lanham Act; and 28 U.S.C. § 1331 as it involves a federal question.

10. This Court further has supplemental or pendant jurisdiction over Buff City's state law claims because the claims are so related to Buff City's federal law claims that they form part of the same case or controversy under Article III of the United States Constitution. *See* 28 U.S.C. § 1367.

11. This Court has personal jurisdiction over Defendants because they are all citizens of the State of Mississippi.

12. Venue is proper in this judicial district under 28 U.S.C. § 1391(b)(1) and (2).

## **III. THE CONTROVERSY**

### **A. The Operating Agreement**

13. Buff City is a Memphis-headquartered soap and bath products company that specializes in handcrafted, quality soap and related bath products. Buff City has thirty-two stores across ten states, many of which are franchise locations.

14. Buff City Soap LLC and Bynum connected in 2017 about the prospect of Bynum operating a Buff City location in Mississippi.

15. At that time, Bynum seemed genuinely interested in working with Buff City Soap LLC and operating at least one Buff City location.

16. Magen Bynum, through her now-dissolved company BCNA, entered into to the Operating Agreement, which has an effective date of October 1, 2017. A true and correct copy of the Operating Agreement is attached hereto as Exhibit A.

17. Bynum and BCNA thereafter operated Buff City locations in Oxford, New Albany, and Tupelo, Mississippi pursuant to the Operating Agreement.

18. Pursuant to the Operating Agreement, Bynum and BCNA agreed to “use Buff City Soap LLC as the exclusive raw material provider to include all supplies necessary to produce ‘sale ready’ Buff City Soap products, including, but not limited to, oils, butters, citric acid, baking soda, containers, items deemed accessories (soap dishes, sponges, etc), and any new raw material added as necessary for future products.” (Operating Agreement, § I).

19. Bynum and BCNA further agreed that “[t]he recipes, trade secrets, etc final ownership of all products belong to Buff City Soap llc. The right to create, market and place for sale all Buff City Soap products runs concurrent with Buff City Soap llc active operating agreements.” (Operating Agreement, § II).

20. Bynum and BCNA also agreed that “[i]n exchange for the license to use Buff City Soap llc’s intellectual property, including trade secrets, recipes, marketing strategies, industry expertise, and business model Buff City New Albany llc agrees to provide Buff City Soap llc a monthly management fee equal to 5% of gross monthly retail sales as evidenced via Clover reporting calculated from the 1st day of each month to the last day of each month, due by the 10th day of the following month, less any commercial (wholesale) sales not expressly added vi addendum to this document.” (Operating Agreement, § IV).

21. The “intellectual property” of Buff City for which Bynum and BCNA agreed to pay a 5% monthly fee included, but was not limited to, Buff City’s federal and state law trademark and trade dress rights, as well as Buff City’s confidential and proprietary recipes and formulas for its product offerings.

22. Buff City's intellectual property includes its federally registered trademarks, such as the FEROCIOUS BEAST, BUFF CITY SOAP (and Design); SOAP MAKERY, GET FRESH WITH YOUR SOAP, WASH THAT ASH; and BCS (and Design) trademarks. U.S. Trademark Reg. Nos. 5,684,101; 5,654,079; 5,399,187; 5,654,077; 5,707,980; 5,637,700; 5,654,078. True and correct copies of the certificates of registration for each of Buff City's federally registered trademarks are attached hereto as Collective Exhibit B.

23. Buff City's intellectual property also includes its trademarks, such as the marks associated with Buff City's various product offerings such as those product names set forth in the table below.

24. In addition, Buff City's intellectual property includes its trade dress, including the distinctive look and feel of the Buff City stores, as well as the distinctive appearance of Buff City's soap bars, which feature a unique crinkle-cut and swirling appearance.

25. At all relevant times, Buff City has been using its federally registered and common law trademarks and trade dress in a prominent and distinctive manner in interstate commerce so as to distinguish the source of its products from those of others, and has spent significant effort and sums of money in advertising and otherwise promoting the sale of its goods under its federally registered and common law trademarks and trade dress in the States of Tennessee and Mississippi and around the United States. Buff City has sold countless soap bars and related bath products under its federally registered and common law trademarks and trade dress.

26. As a result of Buff City's long and exclusive use of its federally registered and common law trademarks and trade dress, the large number of sales under its federally registered and common law trademarks and trade dress, and the large amount of money spent or foregone

for advertising and promotion of the goods sold under its federally registered and common law trademarks and trade dress, Buff City's federally registered and common law trademarks and trade dress have become, through widespread and favorable public acceptance and recognition, exclusive assets of substantial value as symbols of Buff City, its quality of goods, and its good will.

27. Due to Buff City's use and promotion, the trade and purchasing public has come to know and recognize Buff City's federally registered and common law trademarks and trade dress as a designation identifying Buff City as the source of soap and bath products and related goods and services. Accordingly, Buff City's federally registered and common law trademarks and trade dress have developed and represent valuable good will which rightfully belongs exclusively to Buff City.

28. During the term of the Operating Agreement, all of Buff City's confidential and proprietary information was located in Tennessee, and pursuant to the Operating Agreement, Bynum and BCNA purchased all of the raw materials for their Buff City stores from Tennessee.

**B. Violation of the Operating Agreement and Buff City's Rights**

29. In late July and early August 2018, Buff City learned that Bynum was beginning to operate a competing soap business, had used Buff City's name and trademark to solicit wholesale accounts nationwide in violation of the scope of the parties' agreement, and was attempting to place orders with Buff City's suppliers.

30. Specifically, without authorization from Buff City, Bynum operated a booth using the "Buff City" trade name at an Atlanta wholesale market. At the wholesale market, Bynum encouraged customers to purchase from her rather than the "Memphis" Buff City. Bynum received purchase orders and collected payment for "Buff City" in connection with her presence

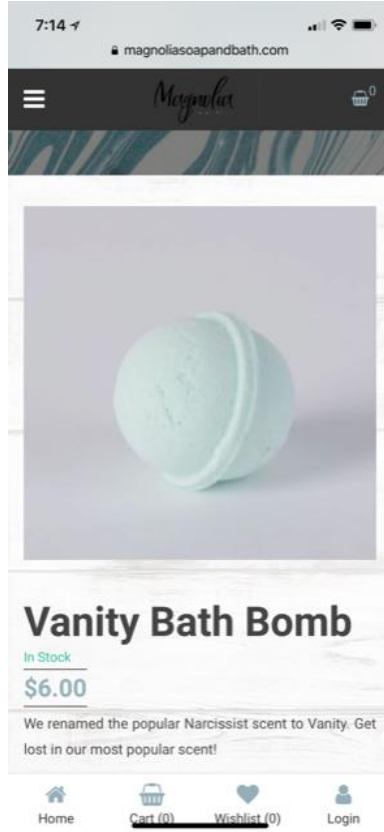
at the Atlanta wholesale market, and then initially failed to fulfill these orders. Buff City ultimately fulfilled one of these orders to maintain good will with the customer, and upon information and belief, Bynum fulfilled the remainder of the orders as “Magnolia Soap.”

31. In a letter dated August 8, 2018, Buff City promptly provided lawful notice to Bynum that it intended to terminate the Operating Agreement and would be withdrawing its consent for Bynum to use any of Buff City’s intellectual property, including its trade secrets. In this letter, Buff City reminded Bynum that she did not have the right to use Buff City’s intellectual property, including its trade secrets and confidential recipes in any other venture.

32. In September 2018, it came to Buff City’s attention that, in connection with their new competing business, Bynum and the Magnolia Soap Defendants were using product images copied directly from Buff City’s website and was continuing to use the Buff City name to sell soap and related products. A depiction of the images on Magnolia Soap’s Facebook page and website alongside the same image on Buff City’s website is shown below:



**Magnolia Soap Facebook Page**



**Magnolia Soap Website**



**Buff City Website**

33. Buff City now understands that Bynum and BCNA entered into the Operating Agreement under false pretenses and that Bynum and BCNA were motivated to enter into the Operating Agreement to gain access to Buff City's proprietary information, learn Buff City's business model, pricing strategies, and marketing strategies, and gain access to Buff City's raw materials at discounted rates, all to gain an unfair advantage to compete with Buff City.

34. Further, Bynum and BCNA failed to fully pay the monthly 5% fee required in Section IV of the Operating Agreement for the license to use Buff City's intellectual property.



35. Despite their failure to pay the full agreed-upon 5% fee, Bynum and BCNA used Buff City's federally registered and common law trademarks and trade dress, as well as Buff City's confidential and proprietary formulas and recipes.

36. Unbeknownst to Buff City at the time, on July 25 and 26, 2018, Bynum—while operating as a Buff City location—submitted formation documents to the Mississippi Secretary of State for each of the Magnolia Soap Defendants.

37. Indeed, July 25, 2018 is also the “first use” and “first use in commerce date” listed on Magnolia Soap & Bath Holding Co., LLC's trademark application for MAGNOLIA SOAP AND BATH CO (and Design) filed with the U.S. Patent and Trademark Office with an affirmative attestation of the accuracy of the information contained in the federal trademark application. *See* U.S. Trademark Application Serial No. 88/120,261. This trademark application was subsequently refused registration by the U.S. Patent and Trademark Office.

38. Upon information and belief, Bynum and the Magnolia Soap Defendants are unfairly competing with Buff City using confidential information learned during Bynum's Agreement with Buff City Soap LLC, using raw materials purchased at a discount from Buff City during this term, and using Buff City's proprietary formulas, recipes, and product naming conventions.

39. Upon information and belief, Bynum and BCNA were purchasing raw materials from Buff City to use in her competing Magnolia Soap business under the false pretense that she was purchasing such materials to use in connection with her Buff City New Albany, Oxford, and Tupelo stores.

40. Upon information and belief, Bynum and the Magnolia Soap Defendants are using confidential and proprietary information, such as product formulas and recipes, that

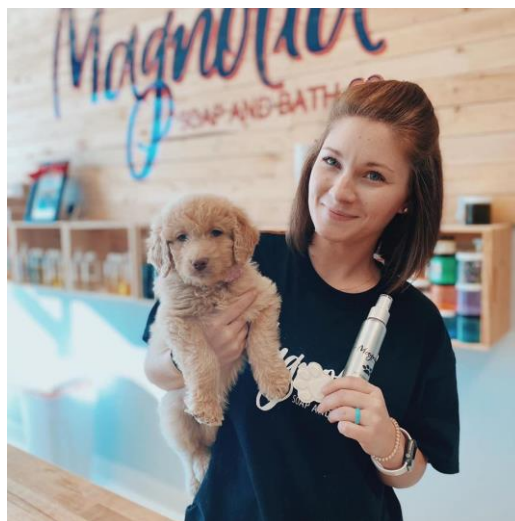
Bynum learned while operating as a Buff City location to purchase additional raw materials to use in connection with her competing Magnolia Soap business.

41. Bynum and the Magnolia Soap Defendants are also copying the look and feel of Buff City's stores as can be seen in the side-by-side images below.

**Images Taken From Buff City Soap Facebook Page**



**Images Taken From Magnolia Soap & Bath Co. Facebook Page**





42. Buff City stores have a unique look and feel, which includes a large shiplap board bearing the Buff City Soap name, wooden crates displaying Buff City’s various product offerings, and a combination of vertically oriented and horizontally oriented crates formed into a tower to display additional product offerings and signage.

43. Bynum and the Magnolia Soap Defendants are also copying the product naming conventions used by Buff City. The table below shows the names of certain Buff City product offerings side-by-side with those offered by Bynum and the Magnolia Soap Defendants:

<b>Buff City Product Names</b>	<b>Magnolia Soap Product Names</b>
<b>Ferocious Beast®</b> (used in connection with soap, beard balm, beard oil, shower fizzy, bath bomb, shave soap, shower oil, body butter, lotion bar)	<b>Fear the Beast</b> (used in connection with soap, beard balm, beard oil, shampoo bar, shave soap, shower oil)
<b>Headache/Hey Headache</b> (offered in connection with soap, shower fizzy, bath bomb, shower oil, body butter, lotion bar)	<b>Headache</b> (used in connection with soap, bath bomb, shower steamer, bath salt)
<b>Magnolia</b> (offered in connection with soap, bath bomb, shower oil, body butter, lotion bar, Epsom salt)	<b>Magnolia</b> (used in connection with soap, bath bomb, shampoo bar, shower oil, shower steamer, body butter, bath salt)
<b>Peace &amp; Love</b> (used in connection with soap, bath bomb, shower oil, body butter, lotion bar)	<b>Peace &amp; Love/Peace &amp; Grace</b> (used in connection with soap, bath bomb, shower oil)

Mermaid (used in connection with soap, bath bomb, shower oil, body butter)	Mermaid (used in connection with soap, bath bomb, shower oil, shower steamer, body butter)
Love Potion (used in connection with soap, shower fizzy, bath bomb, shower oil, body butter, shampoo bar, lotion bar)	Love Potion (used in connection with soap, bath bomb, shampoo bar, shower oil, bath salt)
Unicorn (used in connection with soap, bath bomb, shower oil, body butter)	Unicorn (used in connection with soap, bath bomb, shower oil, bath salt)

44. Among other trademark registrations, Buff City has a federal trademark registration for its FEROCIOUS BEAST trademark. U.S. Trademark Reg. No. 5,684,101.

45. Buff City has spent substantial time and resources developing the look and feel of its store interiors and its product names and marketing the Buff City brand, including these trade dress and trademarks.

46. There is significant customer good will associated with Buff City’s trade dress and trademarks.

47. As can be seen in the chart above, Bynum and the Magnolia Soap Defendants did not just copy one product name from Buff City, but rather copied numerous product names from Buff City while simultaneously using overstocked raw materials purchased by Bynum and BCNA while operating as a Buff City location, and while maintaining stores having the same look and feel as Buff City stores.

48. Buff City has lost and is continuing to lose customers as a result of Bynum and BCNA’s breach of the Operating Agreement and Defendants’ wrongful conduct.

49. Upon information and belief, Bynum and the Magnolia Soap Defendants have made preparations to open another Magnolia Soap location in Southaven, Mississippi, which will similarly use Buff City’s trade dress, product names, and confidential and proprietary

information, and which will further exacerbate customer confusion and constitute continued use of Buff City's confidential and proprietary information.

50. Monetary damages alone will not adequately compensate Buff City for these losses, and Buff City has no adequate remedy at law other than to seek injunctive relief in addition to monetary relief.

#### **IV. CAUSES OF ACTION**

##### **COUNT ONE – BREACH OF CONTRACT AGAINST BYNUM AND BCNA**

51. Buff City incorporates each preceding paragraph as if fully stated herein.

52. When Bynum signed the Operating Agreement as Managing Member of BCNA, a binding and enforceable contract was formed.

53. Defendants Bynum and BCNA have materially breached Sections I, II, and IV of the Operating Agreement by not representing the Buff City Soap brand in good faith, by using Buff City raw materials for a competing business venture, by using Buff City's confidential and proprietary recipes and formulas for a competing business venture, and by failing to pay to Buff City the full agreed-upon fee during the term of the Operating Agreement.

54. As a direct, proximate, and foreseeable result of these breaches of contract, Buff City has suffered and, absent equitable relief, will continue to suffer actual damages, including but not limited to lost revenues and profits in amounts presently incalculable, and irreparable harm, including but not limited to loss of customers, good will, and confidential information, for which Buff City has no adequate remedy at law.

55. For these reasons, Buff City seeks to obtain injunctive relief for breaches of the Operating Agreement to the full extent provided by Tennessee and federal law.<sup>1</sup>

56. Buff City seeks all compensatory damages allowed by law.

57. Given that Defendants Bynum and BCNA's breaches were intentional and malicious, i.e., a tortious breach of contract, Buff City is additionally entitled to an award of punitive damages.

**COUNT TWO – BREACH OF THE IMPLIED COVENANT OF GOOD FAITH AND  
FAIR DEALING AGAINST BYNUM AND BCNA**

58. Buff City incorporates each preceding paragraph as if fully stated herein.

59. Under Tennessee law, the Operating Agreement contains an implied covenant of good faith and fair dealing which requires Defendants Bynum and BCNA to act in good faith and in a commercially reasonable manner.

60. Defendants Bynum and BCNA have failed to deal with Buff City in an open, honest manner by tarnishing and damaging the Buff City name during the term of the Operating Agreement, by overstocking raw materials during the term of the Operating Agreement in order to compete with Buff City, by beginning to do business as “Magnolia Soap” during the term of the Operating Agreement, by not treating Buff City's proprietary recipes, formulas, and associated information as confidential, by continuing to use such Buff City's information after the termination of the Operating Agreement, and by failing to pay Buff City the full agreed-upon monthly 5% fee during the term of the Operating Agreement.

---

<sup>1</sup> Buff City submits that Tennessee and federal law governs the Operating Agreement and all claims asserted herein because Tennessee has the most substantial relationship to the parties and the dispute. In the event that this Court finds that Mississippi law governs Buff City's claims, Buff City is still entitled to all relief sought herein under Mississippi and federal law.

61. Defendants Bynum and BCNA are in breach of the covenant of good faith and fair dealing, and as a result, Buff City has suffered and, absent equitable relief, will continue to suffer actual damages, including but not limited to lost revenues and profits in amounts presently incalculable, and irreparable harm, including but not limited to loss of customers, good will, and confidential information, for which Buff City has no adequate remedy at law.

62. For these reasons, Buff City seeks injunctive relief and all compensatory damages allowed by law.

63. For these reasons, Buff City seeks to obtain injunctive relief for breaches of the implied covenant of good faith and fair dealing contained in the Operating Agreement to the full extent provided by Tennessee and federal law.

64. Given that Defendants Bynum and BCNA's breaches were intentional and malicious, i.e., a tortious breach of contract, Buff City is additionally entitled to an award of punitive damages.

**COUNT THREE – BREACH OF FIDUCIARY DUTY AGAINST BYNUM AND BCNA**

65. Buff City incorporates each preceding paragraph as if fully stated herein.

66. Bynum was the Managing Member and an employee of BCNA until at least August 2018.

67. BCNA was party to the Operating Agreement with Buff City Soap LLC until at least August 2018.

68. Bynum and BCNA had fiduciary duties, including duties to refrain from competing with Buff City, from engaging in activities that undermined Buff City's business, and from undertaking actions likely, presumed, or intended to limit or harm Buff City's business endeavors.

69. Bynum and BCNA breached their fiduciary duties by forming or preparing to form the Magnolia Soap business to offer goods and services in competition with Buff City and by generally failing to act in the best interests of Buff City and its business.

70. Bynum and BCNA were overstocking raw materials, developing a competing soap business, and using Buff City's confidential and proprietary information to compete with Buff City during the term of the Operating Agreement, all without paying Buff City the full agreed-upon monthly 5% fee.

71. Neither Bynum nor BCNA disclosed to Buff City any competing interests before or during the term of the Operating Agreement.

72. As a direct and proximate result of Bynum and BCNA's breaches of fiduciary duties, Buff City has suffered and, absent equitable relief, will continue to suffer actual damages, including but not limited to lost revenues and profits in amounts presently incalculable, and irreparable harm, including but not limited to loss of customers, good will, and confidential information, for which Buff City has no adequate remedy at law.

73. For these reasons, Buff City seeks injunctive relief and all compensatory damages allowed by law.

74. For these reasons, Buff City seeks to obtain injunctive relief for breaches of fiduciary duty to the full extent provided by Tennessee and federal law.

75. Given that Defendants Bynum and BCNA's breaches were intentional and malicious, Buff City is additionally entitled to an award of punitive damages.

**COUNT FOUR – FRAUDULENT INDUCEMENT/FRAUDULENT  
MISREPRESENTATION AGAINST BYNUM AND BCNA**

76. Buff City incorporates each preceding paragraph as if fully stated herein.



77. Bynum and BCNA represented to Buff City that they desired to be part of the Buff City family and work to expand Buff City's presence in Mississippi through the operation of Buff City stores.

78. After entering into the Operating Agreement, Bynum and BCNA represented to Buff City that they were purchasing raw materials from Buff City to be used for their Buff City New Albany, Oxford, and/or Tupelo stores.

79. Neither Bynum nor BCNA disclosed to Buff City any competing interests before or during the term of the Operating Agreement.

80. Bynum and BCNA's representations were made with the intent to induce Buff City Soap LLC to enter into the Operating Agreement, to share with Bynum and BCNA Buff City's confidential and proprietary information, and to allow Bynum and BCNA to purchase Buff City raw materials.

81. The Operating Agreement was an arms' length business negotiation, and Buff City had a reasonable right to rely on Bynum and BCNA's statements in the course of evaluating their interest in operating Buff City stores.

82. Buff City also had a reasonable right to rely on Bynum and BCNA's statements during the term of the Operating Agreement as Bynum and BCNA were purportedly were supposed to be advancing the Buff City business in Mississippi.

83. Bynum and BCNA made these representations knowing that they were false, given that Bynum and BCNA began overstocking raw materials nearly immediately after entering into the Operating Agreement, Bynum and BCNA did not paid Buff City the full agreed-upon monthly 5% license fee, and Bynum began forming and operating a competing soap business within ten months after entering into the Operating Agreement.

84. Due to Bynum and BCNA's representations, Buff City Soap LLC was induced to enter into the Operating Agreement, to share its confidential and proprietary information with Bynum and BCNA, and to permit them access to its raw materials, which ultimately enabled them to unfairly and unlawfully compete with Buff City.

85. As a direct and proximate result of Bynum and BCNA's fraud, Buff City has suffered and, absent equitable relief, will continue to suffer actual damages, including but not limited to lost revenues and profits in amounts presently incalculable, and irreparable harm, including but not limited to loss of customers, good will, and confidential information, for which Buff City has no adequate remedy at law.

86. For these reasons, Buff City seeks injunctive relief and all compensatory damages allowed by law.

87. For these reasons, Buff City seeks to obtain injunctive relief for Bynum and BCNA's fraud to the full extent provided by Tennessee and federal law.

88. Given that Defendants Bynum and BCNA's fraudulent misrepresentations were intentional and malicious, Buff City is additionally entitled to an award of punitive damages.

**COUNT FIVE – TRADEMARK INFRINGEMENT AGAINST BYNUM AND THE  
MAGNOLIA SOAP DEFENDANTS**

89. Buff City incorporates each preceding paragraph as if fully stated herein.

90. Buff City Holdings, LLC is the owner of federal common law trademarks in each of its distinctive product names, including but not limited to FEROCIOUS BEAST, HEADACHE, MAGNOLIA, PEACE AND LOVE, MERMAID, LOVE POTION, and UNICORN for various soap and soap related products.

91. Buff City Holdings, LLC is also the owner of a federal trademark registration for FEROCIOUS BEAST in connection with cosmetic and cleaning preparations, namely, soap bars, bath bombs, body butters and lotion bars, U.S. Trademark Reg. No. 5,684,101, as well as the other federal trademark registrations identified in Paragraph 22 and in Collective Exhibit B.

92. Buff City's common law and federal trademarks are collectively referred to as "the Buff City Trademarks."

93. Bynum and BCNA had a right to use the Buff City Trademarks only in connection with their operation of Buff City stores under the Operating Agreement, but only in connection with their promise to pay Buff City a monthly 5% license fee.

94. Bynum and BCNA had no right to use the Buff City Trademarks without paying the full monthly 5% license fee as set forth in Section IV of the Operating Agreement.

95. Further, once the Operating Agreement was terminated, Buff City withdrew its permission for Bynum and BCNA to use the Buff City Trademarks.

96. Bynum and the Magnolia Soap Defendants used the Buff City Trademarks and/or marks confusingly similar to the Buff City Trademarks during the term of the Operating Agreement without paying the full agreed-upon 5% license fee and continued to use the Buff City Trademarks and/or marks confusingly similar to the Buff City Trademarks in connection with their product offerings after the effective date of the termination.

97. Bynum and the Magnolia Soap Defendants also are using Buff City's MAGNOLIA trademark in connection with their stores.

98. Bynum and the Magnolia Soap Defendants' use of the Buff City Trademarks, including the MAGNOLIA trademark, is without authorization from Buff City and is likely to

cause confusion, to cause mistake, and/or to deceive the purchasing public and also constitutes initial interest confusion.

99. Bynum and the Magnolia Soap Defendants' use of the Buff City Trademarks, including the MAGNOLIA trademark, has been made notwithstanding Buff City's well-known and prior established rights in the Buff City Trademarks, with actual notice of Buff City's rights, and with constructive notice of Buff City's federal registration rights in its FEROCIOUS BEAST trademark under 15 U.S.C. § 1072.

100. Bynum and the Magnolia Soap Defendants' conduct constitutes infringement of the federally-registered FEROCIOUS BEAST trademark in violation of Section 32 of the Lanham Act, 15 U.S.C. § 1114, and infringement of the common law Buff City Trademarks in violation of Section 43 of the Lanham Act, 15 U.S.C. § 1125.

101. Bynum and the Magnolia Soap Defendants' infringements on the Buff City Trademarks are willful, malicious, or in reckless disregard of the terms of the Operating Agreement and Buff City's trademarks rights, and have damaged Buff City's protected trademarks, trade names, and good will. Thus, Buff City is entitled to the damages available under 15 U.S.C. § 1117, including those for exceptional cases.

102. Bynum and the Magnolia Soap Defendants' infringing activities have caused and, unless enjoined by this Court, will continue to cause irreparable injury and other damage to Buff City's business, reputation, and good will in the Buff City Trademarks, for which Buff City has no adequate remedy at law.

**COUNT SIX – TRADE DRESS INFRINGEMENT AGAINST BYNUM AND THE  
MAGNOLIA SOAP DEFENDANTS**

103. Buff City incorporates each preceding paragraph as if fully stated herein.

104. Buff City is the owner of common law trade dress in its distinctive soap design and its distinctive store interior (the “Buff City Trade Dress”).

105. Bynum and BCNA had a right to use the Buff City Trade Dress only in connection with their operation of Buff City stores under the Operating Agreement, but only in connection with their promise to pay Buff City a monthly 5% license fee.

106. Bynum and BCNA had no right to use the Buff City Trade Dress without paying the full agreed-upon 5% license fee as set forth in Section IV of the Operating Agreement.

107. Further, once the Operating Agreement was terminated, Buff City withdrew its permission for Bynum and BCNA to use the Buff City Trade Dress.

108. Bynum and the Magnolia Soap Defendants used the Buff City Trade Dress and/or dress confusingly similar to the Buff City Trade Dress during the term of the Operating Agreement without paying the full agreed-upon 5% license fee and continued to use the Buff City Trade Dress and/or trade dress confusingly similar to the Buff City Trade Dress in connection with their product offerings and store interiors after the effective date of the termination.

109. Bynum and the Magnolia Soap Defendants’ use of the Buff City Trade Dress, including the MAGNOLIA trademark, is without authorization from Buff City and is likely to cause confusion, to cause mistake, and/or to deceive the purchasing public and also constitutes initial interest confusion.

110. The likelihood of confusion, mistake, or deception is further increased by Bynum’s and the Magnolia Soap Defendants’ use of the Buff City Trademarks, in combination with the Buff City Trade Dress.

111. Bynum and the Magnolia Soap Defendants' use of the Buff City Trade Dress has been made notwithstanding Buff City's well-known and prior established rights in the Buff City Trade Dress and with actual notice of Buff City's rights.

112. Bynum and the Magnolia Soap Defendants' conduct constitutes infringement of the Buff City Trade Dress in violation of Section 43 of the Lanham Act, 15 U.S.C. § 1125.

113. Bynum and the Magnolia Soap Defendants' infringements of the Buff City Trade Dress are willful, malicious, or in reckless disregard of the terms of the Operating Agreement and Buff City's trade dress rights, and have damaged Buff City's protected trade dress and good will. Thus, Buff City is entitled to the damages available under 15 U.S.C. § 1117, including those for exceptional cases.

114. Bynum and the Magnolia Soap Defendants' infringing activities have caused and, unless enjoined by this Court, will continue to cause irreparable injury and other damage to Buff City's business, reputation, and good will in the Buff City Trade Dress, for which Buff City has no adequate remedy at law.

**COUNT SEVEN – TORTIOUS INTERFERENCE WITH CONTRACT AGAINST  
BYNUM AND THE MAGNOLIA SOAP DEFENDANTS**

115. Buff City incorporates each preceding paragraph as if fully stated herein.

116. Buff City Soap LLC entered into the Operating Agreement with Defendant BCNA as set forth above. Defendant Bynum and the Magnolia Soap Defendants have knowledge of the Operating Agreement and the contractual obligations of Defendant BCNA thereunder.

117. By forming, owning, operating, and/or being employed by the Magnolia Soap Defendants and by allowing, encouraging, and conspiring and participating with BCNA to

breach the Operating Agreement, Defendant Bynum and the Magnolia Soap Defendants intended to cause, and in fact directly and proximately caused, the breach of the Operating Agreement.

118. Defendant Bynum and the Magnolia Soap Defendants have interfered with the Operating Agreement willfully and with malicious intent. Buff City has been damaged by these breaches of contract, and by the participation in such breaches by Defendant Bynum and the Magnolia Soap Defendants.

119. Buff City is entitled to treble damages under Tenn. Code Ann. § 47-50-109, punitive damages at common law, and all other damages allowed by law for inducement to breach a contract and/or tortious interference with a contract.

**COUNT EIGHT – CIVIL CONSPIRACY AGAINST ALL DEFENDANTS**

120. Buff City incorporates each preceding paragraph as if fully stated herein.

121. Defendants, acting in concert, conspired together to engage in the unlawful conduct alleged herein and to commit the claims of breach of contract, fraudulent inducement/fraudulent misrepresentation, trademark and trade dress infringement, and/or tortious interference with contract.

122. Defendants, by common design, positively and/or tacitly arrived at a mutual understanding as to how they would accomplish their unlawful design and commit the wrongful acts alleged herein.

123. Defendants acted in concert and did in fact carry out their conspiracy by committing the wrongful acts alleged herein and are jointly and severally liable to Buff City for, *inter alia*, breach of contract, fraudulent inducement/fraudulent misrepresentation, trademark and trade dress infringement, and/or tortious interference with contract.

124. As a result of Defendants' wrongful conduct, Buff City is entitled to recover from Defendants, jointly and severally, Buff City's actual damages sustained in an amount to be determined at trial, plus interest, punitive damages, and attorney's fees, costs, and expenses.

**COUNT NINE – UNJUST ENRICHMENT AGAINST ALL DEFENDANTS**

125. Buff City incorporates each preceding paragraph as if fully stated herein.

126. Defendants have been unjustly enriched by their actions, including but not limited to taking wrongful advantage of the confidential and proprietary information, access to raw materials that were provided to Bynum and BCNA when operating as a Buff City location, and use of Buff City's intellectual property, to the detriment of Buff City.

127. As Defendants have obtained benefits which should be returned to Buff City and/or for which Buff City should be compensated under rules of equity, namely revenue derived from the use of Buff City's confidential and proprietary information, Bynum and BCNA's access to raw materials, and the use of Buff City's intellectual property, a claim for unjust enrichment is warranted and Buff City should be made whole for its losses resulting in a benefit and/or windfall to Defendants.

128. Buff City is entitled to a disgorgement of any profits and/or ill-gotten gains made by Defendants due to their unlawful activities.

**V. PRAYER FOR RELIEF**

WHEREFORE, Buff City respectfully requests the following relief in its favor and against all Defendants jointly and severally:

- a. all injunctive relief to which Buff City is entitled to as a matter of law and equity, including but not limited to enjoining Defendants from continuing to breach the Operating Agreement and from infringing Buff City's trademarks and trade dress;



- b. all actual, compensatory, liquidated, and/or statutory damages, including but not limited to all lost profits, suffered by Buff City with respect to each and every cause of action asserted herein;
- c. disgorgement of any revenues and profits obtained by all Defendants by virtue of their breach of the Operating Agreement, breach of fiduciary duty, fraudulent inducement/fraudulent misrepresentation, trademark and trade dress infringement, and tortious interference with the Operating Agreement;
- d. treble damages pursuant to Tenn. Code Ann. § 47-50-109;
- e. enhanced damages pursuant to 15 U.S.C. § 1117;
- f. punitive damages for its breaches of contract and breaches of the covenant of good faith and fair dealing, tortious interference with contract and inducement of breach of contract, and for Defendants' willful, fraudulent, malicious, and/or reckless conduct to the full extent allowed by law;
- g. all costs, expenses, and attorney's fees incurred by Buff City in investigating, readying, bringing, and prosecuting each and every cause of action asserted herein;
- h. pre- and post-judgment interest on all monies found to be due to Buff City from Defendants, at the then prevailing, legal rate from the date said amounts or any part thereof became or become due; and
- i. any additional relief the Court deems warranted under the circumstances.

This, the 18th day of February, 2020.

Respectfully submitted,

**BAKER, DONELSON, BEARMAN,  
CALDWELL & BERKOWITZ, PC**

s/ Zachary B. Busey

Zachary B. Busey (MS Bar # 103793)

Adam S. Baldrige (motion to appear *pro hac vice*  
forthcoming)

Nicole D. Berkowitz (motion to appear *pro hac vice*)

Page 25

forthcoming)  
165 Madison Avenue, Suite 2000  
Memphis, Tennessee 38103  
901-526-2000 (Telephone)  
901-577-0838 (Fax)  
zbusey@bakerdonelson.com  
abaldrige@bakerdonelson.com  
nberkowitz@bakerdonelson.com

*Attorneys for Plaintiff Buff City Soap LLC and Buff  
City Holdings LLC*

# **EXHIBIT A**

# **Operating Agreement**

**Buff City New Albany LLC.**

## **INTENT**

The intent of this document is to serve as the interim operating agreement between Buff City Soap llc. (A Tennessee llc.) and Buff City New Albany llc (A Mississippi llc). While the agreed upon terms are binding, this document is not to serve as a final integrated contract. Buff City Soap llc is currently working with the law firm, Bass, Berry, Sims PLC Memphis, to create a complete contract for all Buff City Soap working partners which shall not change the material agreements reflected in this document.

The purpose of this agreement is to:

- (1) Provide guidance in the normal day to day course of operating/managing a "Buff City Soap" retail location
- (2) Serve as the beginning document of a final integrated contract that encapsulates the knowledge Buff City Soap llc and Buff City New Albany llc discover, learn, acquire through a working relationship.

## **Term**

This agreement is effective as of October, 1st 2017 and will run continuously with the consent of both parties.

### **Buff City Soap llc and Buff City New Albany llc agree to the following:**

- I. Buff City New Albany llc agrees to in good faith represent the Buff City Soap brand by maintaining customer satisfaction in accord with Buff City standards and to offer for sale in all stores only Buff City brand approved products. Buff City New Albany LLC agrees use Buff City Soap LLC as the exclusive raw material provider to include all supplies necessary to produce "sale ready" Buff City Soap products, including, but not limited to, oils, butters, citric acid, baking soda, containers, items deemed accessories (soap dishes, sponges, etc), and any new raw materials added as necessary for future products.
  
- II. Product creativity is encouraged between all Buff City locations. An open source communication environment is the goal. Products must be created within the brand standards specifically to exclude the use of any preservatives, synthetic chemicals (including SLS). The recipes, trade secrets, etc final ownership of all products belong to

Buff City Soap llc. The right to create, market and place for sale all Buff City Soap products runs concurrent with Buff City Soap llc active operating agreements.

III. Buff City New Albany llc shall maintain a commercial liability policy for the business, enter into its own lease agreements, manage its own books, and other than the obligations expressed in this document, operate independently; and therefore consents to the liabilities that arise from transactions required to carry out the obligations of day to day business.

IV. In exchange for the license to use Buff City Soap llc's intellectual property, including trade secrets, recipes, marketing strategies, industry expertise, and business model Buff City New Albany llc agrees to provide Buff City Soap llc a monthly management fee equal to 5% of gross monthly retail sales as evidenced via Clover reporting calculated from the 1st day of each month to the last day of each month, due by the 10th day of the following month, less any commercial (wholesale) sales not expressly added via addendum to this document. Commercial addendum will be necessary when an off site, single commercial account will require greater than \$3000.00 per month in tendered product wholesale value.

V. Buff City Soap llc promises to in good faith provide access to all Branding/ Marketing material, recipes, raw material information and bulk pricing, new products, and any additional resources Buff City llc may reasonably obtain that when viewed objectively would be considered necessary to achieve the purpose of this agreement.

VI. Both parties consent to seek mediation with a reputable non-biased firm prior to any litigation. Venue shall be proper in Shelby County Tennessee.


VIII. Both parties agree if the need for mediation or litigation arises the proper parties to be named are Buff City New Albany llc and/or Buff City Soap llc. Both parties expressly consent not to cause mediation and/or litigation to occur against either party in their personal capacity.




## **Future Considerations**

Amendments shall be added to this agreement regarding:

- (i) Potential sale of either company
- (ii) A plan for procedures, agreements, estate planning, and any other issues that touch and concern the business relationship in the event either party becomes deceased.
- (iii) Any further considerations either party deems necessary to further the intent and/or purpose of the agreement.
- (iv) Remedy considerations.
- (v) A revised operating agreement reflecting the same material elements but with greater detail to the use of Buff City Soap LLC's intellectual property drafted by Bass Berry Sims PLC.

X.   
Magen Bynum  
Managing Member  
Buff City New Albany LLC.

X.   
Brad Kellum  
Managing Member  
Buff City Soap LLC.



# **EXHIBIT B**

# United States of America

## United States Patent and Trademark Office

GET FRESH WITH YOUR SOAP

**Reg. No. 5,707,980**

**Registered Mar. 26, 2019**

**Int. Cl.: 35**

**Service Mark**

**Principal Register**

Buff City Soap LLC (TENNESSEE LIMITED LIABILITY COMPANY), FORMERLY The Bartlett Soap Company LLC  
3080 Stage Post Drive, #104  
Bartlett, TENNESSEE 38133

CLASS 35: Retail store services featuring soap, skin care and bath products

FIRST USE 11-00-2016; IN COMMERCE 11-00-2016

THE MARK CONSISTS OF STANDARD CHARACTERS WITHOUT CLAIM TO ANY PARTICULAR FONT STYLE, SIZE OR COLOR

SER. NO. 87-915,779, FILED 05-10-2018



*Andrei Iancu*

Director of the United States  
Patent and Trademark Office

**REQUIREMENTS TO MAINTAIN YOUR FEDERAL TRADEMARK REGISTRATION**

**WARNING: YOUR REGISTRATION WILL BE CANCELLED IF YOU DO NOT FILE THE DOCUMENTS BELOW DURING THE SPECIFIED TIME PERIODS.**

**Requirements in the First Ten Years\***

**What and When to File:**

- **First Filing Deadline:** You must file a Declaration of Use (or Excusable Nonuse) between the 5th and 6th years after the registration date. See 15 U.S.C. §§1058, 1141k. If the declaration is accepted, the registration will continue in force for the remainder of the ten-year period, calculated from the registration date, unless cancelled by an order of the Commissioner for Trademarks or a federal court.
- **Second Filing Deadline:** You must file a Declaration of Use (or Excusable Nonuse) and an Application for Renewal between the 9th and 10th years after the registration date.\* See 15 U.S.C. §1059.

**Requirements in Successive Ten-Year Periods\***

**What and When to File:**

- You must file a Declaration of Use (or Excusable Nonuse) and an Application for Renewal between every 9th and 10th-year period, calculated from the registration date.\*

**Grace Period Filings\***

The above documents will be accepted as timely if filed within six months after the deadlines listed above with the payment of an additional fee.

**\*ATTENTION MADRID PROTOCOL REGISTRANTS:** The holder of an international registration with an extension of protection to the United States under the Madrid Protocol must timely file the Declarations of Use (or Excusable Nonuse) referenced above directly with the United States Patent and Trademark Office (USPTO). The time periods for filing are based on the U.S. registration date (not the international registration date). The deadlines and grace periods for the Declarations of Use (or Excusable Nonuse) are identical to those for nationally issued registrations. See 15 U.S.C. §§1058, 1141k. However, owners of international registrations do not file renewal applications at the USPTO. Instead, the holder must file a renewal of the underlying international registration at the International Bureau of the World Intellectual Property Organization, under Article 7 of the Madrid Protocol, before the expiration of each ten-year term of protection, calculated from the date of the international registration. See 15 U.S.C. §1141j. For more information and renewal forms for the international registration, see <http://www.wipo.int/madrid/en/>.

**NOTE: Fees and requirements for maintaining registrations are subject to change. Please check the USPTO website for further information. With the exception of renewal applications for registered extensions of protection, you can file the registration maintenance documents referenced above online at <http://www.uspto.gov>.**

**NOTE: A courtesy e-mail reminder of USPTO maintenance filing deadlines will be sent to trademark owners/holders who authorize e-mail communication and maintain a current e-mail address with the USPTO. To ensure that e-mail is authorized and your address is current, please use the Trademark Electronic Application System (TEAS) Correspondence Address and Change of Owner Address Forms available at <http://www.uspto.gov>.**

# United States of America

United States Patent and Trademark Office

## FEROCIOUS BEAST

**Reg. No. 5,684,101**

**Registered Feb. 26, 2019**

**Int. Cl.: 3**

**Trademark**

**Principal Register**

Buff City Soap LLC (TENNESSEE LIMITED LIABILITY COMPANY), FORMERLY The Bartlett Soap Company LLC  
3080 Stage Post Drive, #104  
Bartlett, TENNESSEE 38133

CLASS 3: Cosmetic and cleaning preparations, namely, soap bars, bath bombs, body butters and lotion bars

FIRST USE 6-00-2017; IN COMMERCE 6-00-2017

THE MARK CONSISTS OF STANDARD CHARACTERS WITHOUT CLAIM TO ANY PARTICULAR FONT STYLE, SIZE OR COLOR

SER. NO. 87-915,817, FILED 05-10-2018



*Andrei Iancu*

Director of the United States  
Patent and Trademark Office

**REQUIREMENTS TO MAINTAIN YOUR FEDERAL TRADEMARK REGISTRATION**

**WARNING: YOUR REGISTRATION WILL BE CANCELLED IF YOU DO NOT FILE THE DOCUMENTS BELOW DURING THE SPECIFIED TIME PERIODS.**

**Requirements in the First Ten Years\***

**What and When to File:**

- **First Filing Deadline:** You must file a Declaration of Use (or Excusable Nonuse) between the 5th and 6th years after the registration date. See 15 U.S.C. §§1058, 1141k. If the declaration is accepted, the registration will continue in force for the remainder of the ten-year period, calculated from the registration date, unless cancelled by an order of the Commissioner for Trademarks or a federal court.
- **Second Filing Deadline:** You must file a Declaration of Use (or Excusable Nonuse) and an Application for Renewal between the 9th and 10th years after the registration date.\* See 15 U.S.C. §1059.

**Requirements in Successive Ten-Year Periods\***

**What and When to File:**

- You must file a Declaration of Use (or Excusable Nonuse) and an Application for Renewal between every 9th and 10th-year period, calculated from the registration date.\*

**Grace Period Filings\***

The above documents will be accepted as timely if filed within six months after the deadlines listed above with the payment of an additional fee.

**\*ATTENTION MADRID PROTOCOL REGISTRANTS:** The holder of an international registration with an extension of protection to the United States under the Madrid Protocol must timely file the Declarations of Use (or Excusable Nonuse) referenced above directly with the United States Patent and Trademark Office (USPTO). The time periods for filing are based on the U.S. registration date (not the international registration date). The deadlines and grace periods for the Declarations of Use (or Excusable Nonuse) are identical to those for nationally issued registrations. See 15 U.S.C. §§1058, 1141k. However, owners of international registrations do not file renewal applications at the USPTO. Instead, the holder must file a renewal of the underlying international registration at the International Bureau of the World Intellectual Property Organization, under Article 7 of the Madrid Protocol, before the expiration of each ten-year term of protection, calculated from the date of the international registration. See 15 U.S.C. §1141j. For more information and renewal forms for the international registration, see <http://www.wipo.int/madrid/en/>.

**NOTE: Fees and requirements for maintaining registrations are subject to change. Please check the USPTO website for further information. With the exception of renewal applications for registered extensions of protection, you can file the registration maintenance documents referenced above online at <http://www.uspto.gov>.**

**NOTE: A courtesy e-mail reminder of USPTO maintenance filing deadlines will be sent to trademark owners/holders who authorize e-mail communication and maintain a current e-mail address with the USPTO. To ensure that e-mail is authorized and your address is current, please use the Trademark Electronic Application System (TEAS) Correspondence Address and Change of Owner Address Forms available at <http://www.uspto.gov>.**



# United States of America

## United States Patent and Trademark Office



**Reg. No. 5,654,078**

**Registered Jan. 15, 2019**

**Int. Cl.: 35**

**Service Mark**

**Principal Register**

Buff City Soap LLC (TENNESSEE LIMITED LIABILITY COMPANY), FORMERLY The Bartlett Soap Company LLC  
3080 Stage Post Drive, #104  
Bartlett, TENNESSEE 38133

CLASS 35: Retail store services featuring soap, skin care and bath products

FIRST USE 11-00-2016; IN COMMERCE 11-00-2016

The mark consists of the letters "BCS" in stylized letters with three water drops around the letters.

SER. NO. 87-915,785, FILED 05-10-2018



*Andrei Iancu*

Director of the United States  
Patent and Trademark Office

**REQUIREMENTS TO MAINTAIN YOUR FEDERAL TRADEMARK REGISTRATION**

**WARNING: YOUR REGISTRATION WILL BE CANCELLED IF YOU DO NOT FILE THE DOCUMENTS BELOW DURING THE SPECIFIED TIME PERIODS.**

**Requirements in the First Ten Years\***

**What and When to File:**

- **First Filing Deadline:** You must file a Declaration of Use (or Excusable Nonuse) between the 5th and 6th years after the registration date. See 15 U.S.C. §§1058, 1141k. If the declaration is accepted, the registration will continue in force for the remainder of the ten-year period, calculated from the registration date, unless cancelled by an order of the Commissioner for Trademarks or a federal court.
- **Second Filing Deadline:** You must file a Declaration of Use (or Excusable Nonuse) and an Application for Renewal between the 9th and 10th years after the registration date.\* See 15 U.S.C. §1059.

**Requirements in Successive Ten-Year Periods\***

**What and When to File:**

- You must file a Declaration of Use (or Excusable Nonuse) and an Application for Renewal between every 9th and 10th-year period, calculated from the registration date.\*

**Grace Period Filings\***

The above documents will be accepted as timely if filed within six months after the deadlines listed above with the payment of an additional fee.

**\*ATTENTION MADRID PROTOCOL REGISTRANTS:** The holder of an international registration with an extension of protection to the United States under the Madrid Protocol must timely file the Declarations of Use (or Excusable Nonuse) referenced above directly with the United States Patent and Trademark Office (USPTO). The time periods for filing are based on the U.S. registration date (not the international registration date). The deadlines and grace periods for the Declarations of Use (or Excusable Nonuse) are identical to those for nationally issued registrations. See 15 U.S.C. §§1058, 1141k. However, owners of international registrations do not file renewal applications at the USPTO. Instead, the holder must file a renewal of the underlying international registration at the International Bureau of the World Intellectual Property Organization, under Article 7 of the Madrid Protocol, before the expiration of each ten-year term of protection, calculated from the date of the international registration. See 15 U.S.C. §1141j. For more information and renewal forms for the international registration, see <http://www.wipo.int/madrid/en/>.

**NOTE: Fees and requirements for maintaining registrations are subject to change. Please check the USPTO website for further information. With the exception of renewal applications for registered extensions of protection, you can file the registration maintenance documents referenced above online at <http://www.uspto.gov>.**

**NOTE: A courtesy e-mail reminder of USPTO maintenance filing deadlines will be sent to trademark owners/holders who authorize e-mail communication and maintain a current e-mail address with the USPTO. To ensure that e-mail is authorized and your address is current, please use the Trademark Electronic Application System (TEAS) Correspondence Address and Change of Owner Address Forms available at <http://www.uspto.gov>.**

# United States of America

United States Patent and Trademark Office



**Reg. No. 5,654,079**

**Registered Jan. 15, 2019**

**Int. Cl.: 3, 21**

**Trademark**

**Principal Register**

Buff City Soap LLC (TENNESSEE LIMITED LIABILITY COMPANY), FORMERLY The Bartlett Soap Company LLC  
3080 Stage Post Drive, #104  
Bartlett, TENNESSEE 38133

CLASS 3: Cosmetics and cleaning preparations, namely, bar soaps, lotions bars, shower fizzies, body and foot scrubs, shower oils, body butters, shampoo bars, bath bombs, facial cleansers, facial scrubs, facial toners, facial creams, lip balms, beard oils, beard balms, pet bar soaps and powdered laundry detergents

FIRST USE 11-00-2016; IN COMMERCE 11-00-2016

CLASS 21: Cosmetic and cleaning accessories, namely, soap dishes, soap sleeves and soap bags

FIRST USE 11-00-2016; IN COMMERCE 11-00-2016

The mark consists of the words "BUFF CITY SOAP" in stylized letters with four water drops around the wording

OWNER OF U.S. REG. NO. 5399187

No claim is made to the exclusive right to use the following apart from the mark as shown: "SOAP"

SER. NO. 87-915,792, FILED 05-10-2018



A handwritten signature in cursive script, appearing to read "Andrei Iancu".

Director of the United States  
Patent and Trademark Office

**REQUIREMENTS TO MAINTAIN YOUR FEDERAL TRADEMARK REGISTRATION**

**WARNING: YOUR REGISTRATION WILL BE CANCELLED IF YOU DO NOT FILE THE DOCUMENTS BELOW DURING THE SPECIFIED TIME PERIODS.**

**Requirements in the First Ten Years\***

**What and When to File:**

- **First Filing Deadline:** You must file a Declaration of Use (or Excusable Nonuse) between the 5th and 6th years after the registration date. See 15 U.S.C. §§1058, 1141k. If the declaration is accepted, the registration will continue in force for the remainder of the ten-year period, calculated from the registration date, unless cancelled by an order of the Commissioner for Trademarks or a federal court.
- **Second Filing Deadline:** You must file a Declaration of Use (or Excusable Nonuse) and an Application for Renewal between the 9th and 10th years after the registration date.\* See 15 U.S.C. §1059.

**Requirements in Successive Ten-Year Periods\***

**What and When to File:**

- You must file a Declaration of Use (or Excusable Nonuse) and an Application for Renewal between every 9th and 10th-year period, calculated from the registration date.\*

**Grace Period Filings\***

The above documents will be accepted as timely if filed within six months after the deadlines listed above with the payment of an additional fee.

**\*ATTENTION MADRID PROTOCOL REGISTRANTS:** The holder of an international registration with an extension of protection to the United States under the Madrid Protocol must timely file the Declarations of Use (or Excusable Nonuse) referenced above directly with the United States Patent and Trademark Office (USPTO). The time periods for filing are based on the U.S. registration date (not the international registration date). The deadlines and grace periods for the Declarations of Use (or Excusable Nonuse) are identical to those for nationally issued registrations. See 15 U.S.C. §§1058, 1141k. However, owners of international registrations do not file renewal applications at the USPTO. Instead, the holder must file a renewal of the underlying international registration at the International Bureau of the World Intellectual Property Organization, under Article 7 of the Madrid Protocol, before the expiration of each ten-year term of protection, calculated from the date of the international registration. See 15 U.S.C. §1141j. For more information and renewal forms for the international registration, see <http://www.wipo.int/madrid/en/>.

**NOTE: Fees and requirements for maintaining registrations are subject to change. Please check the USPTO website for further information. With the exception of renewal applications for registered extensions of protection, you can file the registration maintenance documents referenced above online at <http://www.uspto.gov>.**

**NOTE: A courtesy e-mail reminder of USPTO maintenance filing deadlines will be sent to trademark owners/holders who authorize e-mail communication and maintain a current e-mail address with the USPTO. To ensure that e-mail is authorized and your address is current, please use the Trademark Electronic Application System (TEAS) Correspondence Address and Change of Owner Address Forms available at <http://www.uspto.gov>.**

# United States of America

United States Patent and Trademark Office

## BUFF CITY SOAP

**Reg. No. 5,399,187**

**Registered Feb. 13, 2018**

**Int. Cl.: 3, 21**

**Trademark**

**Principal Register**

Buff City Soap LLC (TENNESSEE LIMITED LIABILITY COMPANY), FORMERLY The Bartlett Soap Company LLC  
#104  
3080 Stage Post Dr.  
Bartlett, TENNESSEE 38133

CLASS 3: cosmetics and cleaning preparations, namely: bar soaps, lotion bars, shower fizzies, body and foot scrubs, shower oils, body butters, shampoo bars, bath bombs, facial cleansers, facial scrubs, facial toners, facial creams, lip balms, beard oils, beard balms, pet bar soaps, and powdered laundry detergents

FIRST USE 9-15-2016; IN COMMERCE 9-15-2016

CLASS 21: cosmetic and cleaning accessories, namely: soap dishes and soap sleeves and soap bags

FIRST USE 9-15-2016; IN COMMERCE 9-15-2016

THE MARK CONSISTS OF STANDARD CHARACTERS WITHOUT CLAIM TO ANY PARTICULAR FONT STYLE, SIZE OR COLOR

No claim is made to the exclusive right to use the following apart from the mark as shown: "SOAP"

SER. NO. 87-259,981, FILED 12-07-2016



*Andrei Iancu*

Director of the United States  
Patent and Trademark Office

**REQUIREMENTS TO MAINTAIN YOUR FEDERAL TRADEMARK REGISTRATION**

**WARNING: YOUR REGISTRATION WILL BE CANCELLED IF YOU DO NOT FILE THE DOCUMENTS BELOW DURING THE SPECIFIED TIME PERIODS.**

**Requirements in the First Ten Years\***

**What and When to File:**

- **First Filing Deadline:** You must file a Declaration of Use (or Excusable Nonuse) between the 5th and 6th years after the registration date. See 15 U.S.C. §§1058, 1141k. If the declaration is accepted, the registration will continue in force for the remainder of the ten-year period, calculated from the registration date, unless cancelled by an order of the Commissioner for Trademarks or a federal court.
- **Second Filing Deadline:** You must file a Declaration of Use (or Excusable Nonuse) and an Application for Renewal between the 9th and 10th years after the registration date.\* See 15 U.S.C. §1059.

**Requirements in Successive Ten-Year Periods\***

**What and When to File:**

- You must file a Declaration of Use (or Excusable Nonuse) and an Application for Renewal between every 9th and 10th-year period, calculated from the registration date.\*

**Grace Period Filings\***

The above documents will be accepted as timely if filed within six months after the deadlines listed above with the payment of an additional fee.

**\*ATTENTION MADRID PROTOCOL REGISTRANTS:** The holder of an international registration with an extension of protection to the United States under the Madrid Protocol must timely file the Declarations of Use (or Excusable Nonuse) referenced above directly with the United States Patent and Trademark Office (USPTO). The time periods for filing are based on the U.S. registration date (not the international registration date). The deadlines and grace periods for the Declarations of Use (or Excusable Nonuse) are identical to those for nationally issued registrations. See 15 U.S.C. §§1058, 1141k. However, owners of international registrations do not file renewal applications at the USPTO. Instead, the holder must file a renewal of the underlying international registration at the International Bureau of the World Intellectual Property Organization, under Article 7 of the Madrid Protocol, before the expiration of each ten-year term of protection, calculated from the date of the international registration. See 15 U.S.C. §1141j. For more information and renewal forms for the international registration, see <http://www.wipo.int/madrid/en/>.

**NOTE: Fees and requirements for maintaining registrations are subject to change. Please check the USPTO website for further information. With the exception of renewal applications for registered extensions of protection, you can file the registration maintenance documents referenced above online at <http://www.uspto.gov>.**

**NOTE: A courtesy e-mail reminder of USPTO maintenance filing deadlines will be sent to trademark owners/holders who authorize e-mail communication and maintain a current e-mail address with the USPTO. To ensure that e-mail is authorized and your address is current, please use the Trademark Electronic Application System (TEAS) Correspondence Address and Change of Owner Address Forms available at <http://www.uspto.gov>.**

# United States of America

United States Patent and Trademark Office

## WASH THAT ASH

**Reg. No. 5,637,700**

**Registered Dec. 25, 2018**

**Int. Cl.: 3**

**Trademark**

**Principal Register**

Buff City Soap LLC (TENNESSEE LIMITED LIABILITY COMPANY), FORMERLY The Bartlett Soap Company LLC  
3080 Stage Post Drive, #104  
Bartlett, TENNESSEE 38133

CLASS 3: Cosmetic and cleaning preparations, namely, soap bars, bath bombs, body butters and lotion bars

FIRST USE 8-00-2017; IN COMMERCE 8-00-2017

THE MARK CONSISTS OF STANDARD CHARACTERS WITHOUT CLAIM TO ANY PARTICULAR FONT STYLE, SIZE OR COLOR

SER. NO. 87-915,691, FILED 05-10-2018



*Andrei Iancu*

Director of the United States  
Patent and Trademark Office

**REQUIREMENTS TO MAINTAIN YOUR FEDERAL TRADEMARK REGISTRATION**

**WARNING: YOUR REGISTRATION WILL BE CANCELLED IF YOU DO NOT FILE THE DOCUMENTS BELOW DURING THE SPECIFIED TIME PERIODS.**

**Requirements in the First Ten Years\***

**What and When to File:**

- **First Filing Deadline:** You must file a Declaration of Use (or Excusable Nonuse) between the 5th and 6th years after the registration date. See 15 U.S.C. §§1058, 1141k. If the declaration is accepted, the registration will continue in force for the remainder of the ten-year period, calculated from the registration date, unless cancelled by an order of the Commissioner for Trademarks or a federal court.
- **Second Filing Deadline:** You must file a Declaration of Use (or Excusable Nonuse) and an Application for Renewal between the 9th and 10th years after the registration date.\* See 15 U.S.C. §1059.

**Requirements in Successive Ten-Year Periods\***

**What and When to File:**

- You must file a Declaration of Use (or Excusable Nonuse) and an Application for Renewal between every 9th and 10th-year period, calculated from the registration date.\*

**Grace Period Filings\***

The above documents will be accepted as timely if filed within six months after the deadlines listed above with the payment of an additional fee.

**\*ATTENTION MADRID PROTOCOL REGISTRANTS:** The holder of an international registration with an extension of protection to the United States under the Madrid Protocol must timely file the Declarations of Use (or Excusable Nonuse) referenced above directly with the United States Patent and Trademark Office (USPTO). The time periods for filing are based on the U.S. registration date (not the international registration date). The deadlines and grace periods for the Declarations of Use (or Excusable Nonuse) are identical to those for nationally issued registrations. See 15 U.S.C. §§1058, 1141k. However, owners of international registrations do not file renewal applications at the USPTO. Instead, the holder must file a renewal of the underlying international registration at the International Bureau of the World Intellectual Property Organization, under Article 7 of the Madrid Protocol, before the expiration of each ten-year term of protection, calculated from the date of the international registration. See 15 U.S.C. §1141j. For more information and renewal forms for the international registration, see <http://www.wipo.int/madrid/en/>.

**NOTE: Fees and requirements for maintaining registrations are subject to change. Please check the USPTO website for further information. With the exception of renewal applications for registered extensions of protection, you can file the registration maintenance documents referenced above online at <http://www.uspto.gov>.**

**NOTE: A courtesy e-mail reminder of USPTO maintenance filing deadlines will be sent to trademark owners/holders who authorize e-mail communication and maintain a current e-mail address with the USPTO. To ensure that e-mail is authorized and your address is current, please use the Trademark Electronic Application System (TEAS) Correspondence Address and Change of Owner Address Forms available at <http://www.uspto.gov>.**



# United States of America

United States Patent and Trademark Office

## SOAP MAKERY

**Reg. No. 5,654,077**

**Registered Jan. 15, 2019**

**Int. Cl.: 35**

**Service Mark**

**Principal Register**

Buff City Soap LLC (TENNESSEE LIMITED LIABILITY COMPANY), FORMERLY The Bartlett Soap Company LLC  
3080 Stage Post Drive, #104  
Bartlett, TENNESSEE 38133

CLASS 35: Retail store services featuring soap, skin care and bath products

FIRST USE 2-00-2015; IN COMMERCE 2-00-2015

THE MARK CONSISTS OF STANDARD CHARACTERS WITHOUT CLAIM TO ANY PARTICULAR FONT STYLE, SIZE OR COLOR

No claim is made to the exclusive right to use the following apart from the mark as shown:  
"SOAP"

SER. NO. 87-915,782, FILED 05-10-2018



*Andrei Iancu*

Director of the United States  
Patent and Trademark Office

**REQUIREMENTS TO MAINTAIN YOUR FEDERAL TRADEMARK REGISTRATION**

**WARNING: YOUR REGISTRATION WILL BE CANCELLED IF YOU DO NOT FILE THE DOCUMENTS BELOW DURING THE SPECIFIED TIME PERIODS.**

**Requirements in the First Ten Years\***

**What and When to File:**

- **First Filing Deadline:** You must file a Declaration of Use (or Excusable Nonuse) between the 5th and 6th years after the registration date. See 15 U.S.C. §§1058, 1141k. If the declaration is accepted, the registration will continue in force for the remainder of the ten-year period, calculated from the registration date, unless cancelled by an order of the Commissioner for Trademarks or a federal court.
- **Second Filing Deadline:** You must file a Declaration of Use (or Excusable Nonuse) and an Application for Renewal between the 9th and 10th years after the registration date.\* See 15 U.S.C. §1059.

**Requirements in Successive Ten-Year Periods\***

**What and When to File:**

- You must file a Declaration of Use (or Excusable Nonuse) and an Application for Renewal between every 9th and 10th-year period, calculated from the registration date.\*

**Grace Period Filings\***

The above documents will be accepted as timely if filed within six months after the deadlines listed above with the payment of an additional fee.

**\*ATTENTION MADRID PROTOCOL REGISTRANTS:** The holder of an international registration with an extension of protection to the United States under the Madrid Protocol must timely file the Declarations of Use (or Excusable Nonuse) referenced above directly with the United States Patent and Trademark Office (USPTO). The time periods for filing are based on the U.S. registration date (not the international registration date). The deadlines and grace periods for the Declarations of Use (or Excusable Nonuse) are identical to those for nationally issued registrations. See 15 U.S.C. §§1058, 1141k. However, owners of international registrations do not file renewal applications at the USPTO. Instead, the holder must file a renewal of the underlying international registration at the International Bureau of the World Intellectual Property Organization, under Article 7 of the Madrid Protocol, before the expiration of each ten-year term of protection, calculated from the date of the international registration. See 15 U.S.C. §1141j. For more information and renewal forms for the international registration, see <http://www.wipo.int/madrid/en/>.

**NOTE: Fees and requirements for maintaining registrations are subject to change. Please check the USPTO website for further information. With the exception of renewal applications for registered extensions of protection, you can file the registration maintenance documents referenced above online at <http://www.uspto.gov>.**

**NOTE: A courtesy e-mail reminder of USPTO maintenance filing deadlines will be sent to trademark owners/holders who authorize e-mail communication and maintain a current e-mail address with the USPTO. To ensure that e-mail is authorized and your address is current, please use the Trademark Electronic Application System (TEAS) Correspondence Address and Change of Owner Address Forms available at <http://www.uspto.gov>.**

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

Buff City Soap LLC and Buff City Soap Holdings LLC

(b) County of Residence of First Listed Plaintiff Shelby County, TN  
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

Zachary B. Busey (MS #103793)  
Baker, Donelson, Bearman, Caldwell & Berkowitz, P.C.  
165 Madison Ave., Ste. 2000, Memphis, TN 38103; (901) 526-2000

DEFENDANTS

Magen Bynum, Buff City New Albany, LLC, Magnolia Soap & Bath Co. of Oxford, LLC, Magnolia Soap & Bath Co. of New Albany, LLC, Magnolia Soap & Bath Co. of Tupelo, LLC and Magnolia Soap & Bath Holdings Co., LLC

County of Residence of First Listed Defendant Lee County, MS  
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- 1 U.S. Government Plaintiff
- 3 Federal Question (U.S. Government Not a Party)
- 2 U.S. Government Defendant
- 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

	PTF	DEF		PTF	DEF
Citizen of This State	<input type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated or Principal Place of Business In This State	<input type="checkbox"/> 4	<input type="checkbox"/> 4
Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business In Another State	<input type="checkbox"/> 5	<input type="checkbox"/> 5
Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6

IV. NATURE OF SUIT (Place an "X" in One Box Only)

Click here for: [Nature of Suit Code Descriptions.](#)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	<b>PERSONAL INJURY</b> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	<input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability <b>PERSONAL PROPERTY</b> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <b>PROPERTY RIGHTS</b> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent - Abbreviated New Drug Application <input checked="" type="checkbox"/> 840 Trademark <b>SOCIAL SECURITY</b> <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g))	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit (15 USC 1681 or 1692) <input type="checkbox"/> 485 Telephone Consumer Protection Act <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY	CIVIL RIGHTS	PRISONER PETITIONS	LABOR	FEDERAL TAX SUITS
<input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	<b>Habeas Corpus:</b> <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <b>Other:</b> <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act	<input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609

V. ORIGIN (Place an "X" in One Box Only)

- 1 Original Proceeding
- 2 Removed from State Court
- 3 Remanded from Appellate Court
- 4 Reinstated or Reopened
- 5 Transferred from Another District (specify)
- 6 Multidistrict Litigation - Transfer
- 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):  
15 U.S.C. § 1121

Brief description of cause:  
Violation of Operating Agreement and Trademark Infringement

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P. DEMAND \$

CHECK YES only if demanded in complaint:  
JURY DEMAND:  Yes  No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE \_\_\_\_\_ DOCKET NUMBER \_\_\_\_\_

DATE: 02/18/2020 SIGNATURE OF ATTORNEY OF RECORD: s/ Zachary B. Busey

FOR OFFICE USE ONLY

0537-1773746

RECEIPT #

AMOUNT: \$400

APPLYING IFP

JUDGE: NBB

MAG. JUDGE

RP